
A BILL FOR AN ACT

RELATING TO AN ENVIRONMENTAL COURT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that environmental
2 disputes are currently dealt with in a variety of courts. This
3 organizational structure inadvertently promotes inconsistent
4 application of the wide variety of environmental laws.

5 The legislature also finds that the continued maintenance
6 and improvement of Hawaii's environment requires constant
7 vigilance and continued stewardship to ensure its lasting
8 beauty, cleanliness, and uniqueness, and the stability of its
9 natural systems, all of which enhance the mental and physical
10 well-being of Hawaii's people.

11 The purpose of this Act is to preserve and protect Hawaii's
12 natural environment through consistent and uniform application
13 of our environmental laws by establishing environmental courts
14 to hear cases and preside over administrative proceedings
15 relating to environmental law.

16 SECTION 2. The Hawaii Revised Statutes is amended by
17 adding a new chapter to be appropriately designated and to read
18 as follows:



1 "CHAPTER

2 ENVIRONMENTAL COURT

3 § -1 **Environmental court; establishment.** To the full
4 extent permitted by the state constitution and except as
5 otherwise provided by law, environmental courts shall be created
6 as divisions of the circuit courts of the State and shall not be
7 deemed to be other courts as those terms are used in the state
8 constitution. An environmental court shall be held at the
9 courthouse in each circuit, or other duly designated place, by
10 the judge or judges of the respective environmental courts. The
11 chief justice of the supreme court shall designate an
12 environmental judge or judges for each circuit, as may be
13 necessary, from among the judges of each circuit. In any
14 circuit in which more than one judge is authorized to exercise
15 jurisdiction as judge of the environmental court, the chief
16 justice shall designate one of the judges as senior judge. The
17 chief justice may temporarily assign an environmental court
18 judge to preside in another circuit when the urgency of one or
19 more cases requires the chief justice to do so.

20 § -2 **Jurisdiction.** (a) The environmental courts shall
21 have jurisdiction over all actions and violations and shall hear
22 appeals of contested cases and any other administrative



1 proceedings authorized by chapter 91, arising under chapters 6D,
2 6E, 6K, 149A, 150A, 174C, 179D, 181, 182, 183, 183C, 183D, 184,
3 185, 187A, 188, 189, 190, 190D, 195, 195D, 197, 198, 198D, 200,
4 205, 205A, 269, 339, 340B, 340E, 340F, 342B, 342C, 342D, 342E,
5 342F, 342G, 342H, 342I, 342J, 342L, 342P, and 343.

6 (b) In any case in which it has jurisdiction, the
7 environmental court shall exercise general equity powers as
8 authorized by law. Nothing in this chapter shall be construed
9 to limit the jurisdiction and authority of any circuit judge,
10 designated as judge of the environmental court, over matters
11 within the scope of this chapter.

12 § -3 **Chief administrative officer; environmental**
13 **commissioners.** (a) For each environmental court, the judge, or
14 the senior judge when there is more than one judge, shall
15 appoint a chief administrative and executive officer who shall
16 have the title of director of the environmental court. Under
17 the general supervision of the senior judge or the judge, the
18 director shall:

- 19 (1) Prepare an annual budget for the court;
20 (2) Formulate procedures governing the routine
21 administration of court services;



- 1 (3) Make recommendations to the court for improvement in
- 2 court services;
- 3 (4) Make recommendations to the senior judge or the judge
- 4 for the appointment of administrative, supervisory,
- 5 consultant, and necessary professional, clerical, and
- 6 other personnel to perform the duties assigned to the
- 7 court and the director;
- 8 (5) Provide supervision and consultation to the
- 9 administrative and supervisory staff regarding the
- 10 administration of court services, recruitment of
- 11 personnel, in-service training, and fiscal and office
- 12 management; and
- 13 (6) Perform other duties as the senior judge or the judge
- 14 shall specify.
- 15 (b) The judges of each environmental court shall be
- 16 assisted by environmental commissioners who shall be attorneys
- 17 with expertise in environmental law, and familiarity with
- 18 Hawaiian culture in relation to environmental issues. The chief
- 19 justice shall hire and at the chief justice's pleasure remove,
- 20 environmental commissioners on a contractual basis without
- 21 regard to chapters 76 and 77.



1 **§ -4 Environmental court mediation program.** (a)

2 Except where the parties have participated in mediation under
3 section 91-8.5, all actions, violations, and appeals of
4 contested cases falling under this chapter shall be submitted to
5 mediation before being heard by the environmental court.

6 (b) The parties may jointly select a person to conduct the
7 mediation. If the parties are unable to jointly select a
8 mediator, the environmental court shall select the mediator.

9 All costs of the mediation shall be borne equally by the parties
10 unless otherwise agreed, ordered by the environmental court, or
11 provided by law.

12 (c) No mediation statements or settlement offers shall be
13 admitted into any subsequent court proceedings.

14 (d) If any mediation under this section is not completed
15 within two months from commencement, no further mediation shall
16 be required unless agreed to by the parties.

17 **§ -5 Rules.** The supreme court shall adopt rules
18 regarding the administration, operation, and procedures of the
19 environmental courts."

20 SECTION 3. Chapter 91, Hawaii Revised Statutes, is amended
21 by adding a new section to be appropriately designated and to
22 read as follows:



1 "§91- Judicial review of environmental matters.
2 Judicial review of administrative proceedings arising under
3 chapters 6D, 6E, 6K, 149A, 150A, 174C, 179D, 181, 182, 183,
4 183C, 183D, 184, 185, 187A, 188, 189, 190, 190D, 195, 195D, 197,
5 198, 198D, 200, 205, 205A, 269, 339, 340B, 340E, 340F, 342B,
6 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, and
7 343 shall be heard by the environmental court."

8 SECTION 4. Section 91-7, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Any interested person may obtain a judicial
11 declaration as to the validity of an agency rule as provided in
12 subsection (b) [~~herein~~] by bringing an action against the agency
13 in the circuit court or, if applicable, the environmental court
14 in accordance with section 91- , of the county in which the
15 petitioner resides or has its principal place of business. The
16 action may be maintained regardless of whether [~~or not~~] the
17 petitioner has first requested the agency to pass upon the
18 validity of the rule in question."

19 SECTION 5. Section 91-14, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:

21 "(b) Except as otherwise provided herein, proceedings for
22 review shall be instituted in the circuit court or in the



1 environmental court, as provided in section 91- , within
2 thirty days after the preliminary ruling or within thirty days
3 after service of the certified copy of the final decision and
4 order of the agency pursuant to rule of court, except where a
5 statute provides for a direct appeal to the intermediate
6 appellate court, subject to chapter 602. In such cases, the
7 appeal shall be treated in the same manner as an appeal from the
8 circuit court to the intermediate appellate court, including
9 payment of the fee prescribed by section 607-5 for filing the
10 notice of appeal (except in cases appealed under sections 11-51
11 and 40-91). The court in its discretion may permit other
12 interested persons to intervene."

13 SECTION 6. Chapters 6D, 6E, 6K, 149A, 150A, 174C, 179D,
14 181, 182, 183, 183C, 183D, 184, 185, 187A, 188, 189, 190, 190D,
15 195, 195D, 197, 198, 198D, 200, 205, 205A, 269, 339, 340B, 340E,
16 340F, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J,
17 342L, 342P, and 343 of the Hawaii Revised Statutes are amended
18 by substituting the term "environmental court", or like term,
19 wherever the term "court", "district court", or "circuit court",
20 or like term, appears, as the context requires.

21 SECTION 7. Matters pending in any state court as of the
22 effective date of this Act may be transferred to the



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1 environmental court as the chief justice of the supreme court,
2 in the chief justice's sole discretion, directs.

3 SECTION 8. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 9. This Act shall take effect on July 1, 2007.

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Report Title:

Environmental Court

Description:

Establishes environmental courts as divisions within the circuit courts to hear cases and preside over other administrative proceedings relating to environmental law.

